

(H.J.R. 2)

CONSTITUTIONAL AMENDMENT C

RESOLUTION ON PROPERTY TAX EXEMPTION FOR WATER FACILITIES

2010 GENERAL SESSION

SENATE: 24-0-5

HOUSE: 70-0-5

BALLOT TITLE

☐ **FOR**

☐ **AGAINST**

Shall the Utah Constitution be amended to provide a property tax exemption to nonprofit entities for their:

- water rights and specified facilities used within the state to irrigate land, provide domestic water, or provide water to a public water supplier; and
- land occupied by and, under certain conditions, immediately adjacent to some of those facilities?

IMPARTIAL ANALYSIS

Constitutional Amendment C provides a property tax exemption for certain property owned by nonprofit entities if the property is used to irrigate land, provide domestic water, or provide water to a public water supplier. It also provides an exemption for land occupied by or adjacent to some of that exempt property, under certain circumstances.

Current provisions of the Utah Constitution

The Utah Constitution currently provides a property tax exemption for all government owned and some privately owned water rights and facilities used to produce, treat, store, and distribute water in the state. Privately owned water rights and facilities are exempt only if the owner of the water rights and facilities uses them to irrigate the owner's own land within the state. The Utah Constitution does not presently provide a property tax exemption for privately owned water rights and facilities used to provide water for purposes other than the irrigation of land owned by the owner of the water rights and facilities.

Effect of Constitutional Amendment C

Constitutional Amendment C makes water rights and certain facilities owned by nonprofit entities exempt from property taxes if the water rights and facilities are used within the state to irrigate land, provide domestic water, or provide water to a public water supplier. Under a bill that becomes effective if Constitutional Amendment C is approved by voters, domestic water is defined as water used for a residential or commercial use, including the outdoor watering of vegetation.

Constitutional Amendment C also provides an exemption for land that is occupied by an exempt reservoir, ditch, canal, or pipe if that land is owned by the same nonprofit entity that owns the reservoir, ditch, canal, or pipe. The Amendment also makes land exempt from property taxes if the land: is adjacent to an exempt reservoir, ditch, canal, or pipe; is owned by the same nonprofit entity that owns the reservoir, ditch, canal, or pipe; and is reasonably necessary for the maintenance of the reservoir, ditch, canal, or pipe or is reasonably necessary for supporting their operation.

Effective date

If approved by voters, Constitutional Amendment C takes effect January 1, 2011.

Fiscal impact

Constitutional Amendment C will reduce the property tax liability of certain water-providing nonprofit entities by an estimated cumulative amount of \$400,000 per year. These tax savings could potentially translate into a cost saving for local water authorities that use water provided by the nonprofit entities. The reduction of the nonprofit entities' tax liability will not decrease local government revenue because the \$400,000 tax burden will shift from the nonprofit entities to other taxpayers. The Amendment will have no direct, measurable impact on state government costs or revenues.

ARGUMENT FOR

Water is Utah's most important and precious public resource. The framers of our Utah Constitution appropriately exempted from property tax, the physical facilities needed to capture, store, treat and deliver water to cities, special districts, and farmers. The drafters of our Constitution correctly reasoned that an additional tax on these water facilities would only hinder the orderly development of Utah.

Recently the question has arisen regarding the taxation of water facilities of non-profit water companies that deliver culinary and irrigation water to their members. Many of these companies have been in existence for over a hundred years and are the only source of drinking water in their community.

Constitutional Amendment C exempts water facilities of non-profit companies from property tax. This exemption is appropriate and fair for two reasons. First, nearly all similar water facilities are already exempt from property taxes. Second, those served by non-profit water companies already pay property taxes on the increased value of their property due to the availability of the water service provided by the non-profit water company. Without this exemption the members of these non-profit companies are subject to unfair double taxation that other culinary, domestic and agricultural users are not subject to.

This proposed amendment had six public hearings before being unanimously passed by both the Utah House and Senate. The Constitutional Revision Commission, the State Water Development Commission, and the Executive Water Task Force all voted unanimously to support this fair and equitable change to our Constitution.

We encourage you to vote For Constitutional Amendment C.

Respectfully,
-Representative Patrick Painter
House Chairman, State Water Development Commission
-Steve Urquhart
State Senator, District 29

ARGUMENT AGAINST

No argument submitted.

COMPLETE TEXT CONSTITUTIONAL AMENDMENT C

Utah Constitution Sections Affected:

AMENDS:

ARTICLE XIII, SECTION 3

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution Article XIII, Section 3, to read:

Article XIII, Section 3. [Property tax exemptions.]

(1) The following are exempt from property tax:

- (a) property owned by the State;
- (b) property owned by a public library;
- (c) property owned by a school district;
- (d) property owned by a political subdivision of the State, other than a school district, and located within the political subdivision;
- (e) property owned by a political subdivision of the State, other than a school district, and located outside the political subdivision unless the Legislature by statute authorizes the property tax on that property;
- (f) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;
- (g) places of burial not held or used for private or corporate benefit;
- (h) farm equipment and farm machinery as defined by statute; ~~and~~

COMPLETE TEXT CONSTITUTIONAL AMENDMENT C (CONTINUED)

(i) water rights, reservoirs, pumping plants, ditches, canals, pipes, flumes, power plants, and transmission lines to the extent owned and used by an individual or corporation to irrigate land that is:

(i) within the State; and

(ii) owned by the individual or corporation, or by an individual member of the corporation[-]; and

(j) (i) if owned by a nonprofit entity and used within the State to irrigate land, provide domestic water, as defined by statute, or provide water to a public water supplier:

(A) water rights; and

(B) reservoirs, pumping plants, ditches, canals, pipes, flumes, and, as defined by statute, other water infrastructure;

(ii) land occupied by a reservoir, ditch, canal, or pipe that is exempt under Subsection

(1)(j)(i)(B) if the land is owned by the nonprofit entity that owns the reservoir, ditch, canal, or pipe; and

(iii) land immediately adjacent to a reservoir, ditch, canal, or pipe that is exempt under Subsection (1)(j)(i)(B) if the land is:

(A) owned by the nonprofit entity that owns the adjacent reservoir, ditch, canal, or pipe; and

(B) reasonably necessary for the maintenance or for otherwise supporting the operation of the reservoir, ditch, canal, or pipe.

(2) (a) The Legislature may by statute exempt the following from property tax:

(i) tangible personal property constituting inventory present in the State on January 1 and held for sale in the ordinary course of business;

(ii) tangible personal property present in the State on January 1 and held for sale or processing and shipped to a final destination outside the State within 12 months;

(iii) subject to Subsection (2)(b), property to the extent used to generate and deliver electrical power for pumping water to irrigate lands in the State;

(iv) up to 45% of the fair market value of residential property, as defined by statute;

(v) household furnishings, furniture, and equipment used exclusively by the owner of that property in maintaining the owner's home; and

(vi) tangible personal property that, if subject to property tax, would generate an inconsequential amount of revenue.

(b) The exemption under Subsection (2)(a)(iii) shall accrue to the benefit of the users of pumped water as provided by statute.

(3) The following may be exempted from property tax as provided by statute:

(a) property owned by a disabled person who, during military training or a military conflict, was disabled in the line of duty in the military service of the United States or the State; and

(b) property owned by the unmarried surviving spouse or the minor orphan of a person who:

(i) is described in Subsection (3)(a); or

(ii) during military training or a military conflict, was killed in action or died in the line of duty in the military service of the United States or the State.

(4) The Legislature may by statute provide for the remission or abatement of the taxes of the poor.

Section 2. **Submittal to voters.**

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. **Effective date.**

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2011.